

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 33478/33480

STATE OF IDAHO,	)	2008 Unpublished Opinion No. 534
	)	
Plaintiff-Respondent,	)	Filed: July 8, 2008
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
RYAN FITZELL GILLIARD,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John P. Luster, District Judge.

Order relinquishing jurisdiction and ordering into execution previously imposed sentences, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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PER CURIAM

In case number 33478, Ryan Fitzell Gilliard was charged with grand theft by receiving, retaining, obtaining control over and possession of stolen property, I.C. §§ 18-2403(4) 18-2407. While Gilliard was incarcerated in the county jail, he was charged in case number 33480 with injuring jails, I.C. § 18-7018. Pursuant to a plea agreement, Gilliard pled guilty to both charges in exchange for dismissal of additional charges. Gilliard was sentenced to concurrent terms of four years, with eighteen months determinate, for the grand theft charge and to two years, with one year determinate, for the injury to jails charge, with the district court retaining jurisdiction. After Gilliard completed his rider, the district court relinquished jurisdiction. Gilliard appeals, contending that the district court abused its discretion by imposing excessive sentences and by failing to reduce his sentence *sua sponte* after relinquishing jurisdiction.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standard and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentences, or by failing to reduce them *sua sponte* after relinquishing jurisdiction. Accordingly, the district court's order relinquishing jurisdiction and ordering into execution the previously imposed sentences is affirmed.